

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

|                                       |   |                            |
|---------------------------------------|---|----------------------------|
| David Nakhid                          | : |                            |
| Plaintiff,                            | : |                            |
| Afif Al Tibi St. Turk and Itani Bldg. | : |                            |
| 3rd Floor                             | : | Civil Action Number        |
| Tarik Al Jedideh                      | : |                            |
| Beirut, Lebanon 1105-2070             | : |                            |
|                                       | : | <b>Jury Trial Demanded</b> |
| v.                                    | : |                            |
|                                       | : |                            |
| American University                   | : |                            |
| Defendant.                            | : |                            |
| 4400 Massachusetts Avenue, NW         | : |                            |
| Washington, DC 20016                  | : |                            |

**COMPLAINT**

Plaintiff, David Nakhid, by and through his counsel, brings this action of discrimination in hiring based on race, ethnicity and national origin pursuant to Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1866 against the American University.

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the subject matter of the instant complaint pursuant to 28 U.S.C. § 1331 because the Plaintiff brings an action arising under the laws of the United States.

2. Venue is proper in this District pursuant to 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. §1391 because the unlawful employment practices were committed and the employment records were maintained, in whole or in part, in this District.

## **II. PARTIES**

3. Plaintiff, David Nakhid (“Nakhid”) is a resident of Lebanon and a citizen of Trinidad and Tobago. At all times material to the allegations of this Complaint, Nakhid was within the jurisdiction of the United States and an applicant for employment as the American University Men’s Soccer Head Coach position.

4. American University is a private university in the District of Columbia. American University is an employer within the meaning of 42 U.S.C. § 2000e and 42 U.S.C. §1981.

## **III. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

5. Nakhid filed a charge of discrimination with the Equal Opportunity Employment Commission (“EEOC”) on April 26, 2019.

6. The EEOC issued a Notice of Rights to Nakhid on August 2, 2019. Nakhid received the notice on or about August 3, 2019 and has timely filed the instant action within the requisite 90 day period.

## **IV. FACTS**

7. Nakhid was born in Port of Spain, Trinidad and Tobago. He is Black or of the African diaspora. He attended American University. He was a member of the American University Men’s Soccer team and graduated in 1987 with a bachelor’s degree in International Relations.

8. Nakhid joined the professional soccer (football) ranks after graduating. In so doing, Nakhid became one of the first players to advance from Division 1 NCAA soccer to international professional soccer. Nakhid was inducted into the American University Stafford H.

Cassell Hall of Fame in 2005 and is widely recognized as one of the most prominent players to have played soccer with the University.

9. Nakhid played professional international soccer (football) in Europe and Asia for fifteen (15) years. Nakhid played in Belgium, Switzerland, Greece, Sweden, Lebanon and the United Arab Emirates. Nakhid also played professional soccer in the United States MLS. Nakhid also played with the Trinidad and Tobago National Men's Soccer team between 1992 and 2005, including playing in six (6) FIFA World Cup qualifying matches.

10. Upon retiring from professional soccer, Nakhid assumed the role of Head Coach as well as owner of the David Nakhid International Football Academy ("DNIFA"). DNIFA trains youth soccer players worldwide and places players on professional soccer teams and/or prepares them for collegiate play in the United States. DNIFA has been instrumental in training and placing more than 5,000 youth players since its inception.

11. In addition to leading DNIFA, Nakhid has served as Head Coach of several professional clubs internationally. Nakhid served as Head Coach for FC Al-Mabarrah, a Lebanese 1st Division team, for two years. He served as Head Coach of FC Racing, a Lebanese 1st Division team, for one year. Nakhid currently serves as the Head Coach of FC Bakaa, a 2nd Division Lebanese team.

12. Nakhid has also coached on the world stage. He was an Assistant Coach for the Trinidad and Tobago Men's National Team in 2006. The National Team qualified for and played in the 2006 World Cup in Germany.

13. Nakhid holds a UEFA (Union of European Football Associations) A license. The UEFA A license is similar to obtaining a degree in Europe and takes approximately two (2) years

to complete. There is significant coursework and a number of assessments are a part of the process. The license can be obtained only while working with a national football association and is widely recognized as second only to a UEFA Pro License in international football. Possessing a UEFA A license makes a holder eminently employable.

14. Nakhid learned of the vacancy for the American University Men's Soccer Head Coach position from associates in October 2018. He emailed the University's Assistant Athletic Director, Andrew Smith ("Smith") about the opportunity and Smith directed him to the online application.

15. Nakhid submitted a timely and complete application. The selecting officials, all white employees from the Athletic Department, declined to interview Nakhid and ultimately selected Zach Samol, who is white.

16. Samol's qualifications are demonstrably inferior to Nakhid's. Upon information and belief, Samol has never played professional soccer internationally and has only played in lower-tier or non-MLS professional leagues in the United States. Upon information and belief, Samol has never served as a Head Coach and has never coached internationally. Samol has never coached at a level higher than Assistant Coach with a Division 1 soccer team. Samol possesses a USSF (United States Soccer Federation) B license. The license is significantly inferior to a UEFA license as it requires minimal coursework. The USSF B license can be obtained in approximately one (1) week and entails only a single assessment.

17. Samol was selected only after the University offered the position to a former American University player with a reputation similar to that of Nakhid - Mike Brady ("Brady"). Brady, who was not required to submit to the application and selection process and who is white,

declined the position. Brady's qualifications are similar to those of Nakhid, in that he was inducted into the University's Hall of Fame, played professional soccer, and played with the U.S. National Men's Soccer team. His qualifications, however, were not superior to Nakhid's. Brady coached the University's women's soccer team for approximately eight (8) years, has not coached a professional soccer team, and does not hold any of the superior UEFA licenses.

18. After Brady declined the position, the University initiated the application and interview process. A few African Americans made it to the initial round of interviews and none made it to subsequent rounds. African American candidates in the initial interview pool possessed superior qualifications in comparison to those of Samol. For example, Clint Peay ("Peay"), who is African American, played collegiate soccer, winning four national championships in a row with the University of Virginia. He went on to play professionally in the United States MLS league as well as appearances in international play with the U.S. U23 Men's National Team. Peay was the Head Coach at the University of Richmond and has worked with U.S. Soccer as the U15 National Team Head Coach and a scout. Peay possesses a USSF A license.

19. The University has experienced a number of challenges in terms of racial incidents and satisfying diversity goals among its student body, its faculty, and its staff. It's soccer program is no exception. It is, in fact, a microcosm of the general NCAA Division 1 landscape. 89.9% of head coaches in Division 1 soccer programs are white. Of nearly 40 head coaching positions available in soccer programs across the NCAA since December 2018, only one (1) Black coach has been selected.

20. The entire administrative staff of American University's athletic department is

comprised of white individuals. The current Head Coach as well as assistant soccer coaches are white individuals.

## **V. CLAIMS**

### **A. Discrimination in Violation of Title VII of the Civil Rights Act**

21. Plaintiff restates and realleges the allegations of paragraphs one (1) through 20 as if fully set forth herein and further state as follows:

22. Defendant subjected Plaintiff to discrimination based on his race and national origin, in violation of Title VII of the Civil Rights Act of 1964, as amended, by failing to select him for the Men's Head Soccer Coach position in December 2018.

23. Defendant, which has a history of discrimination in staffing, particularly within its Athletic Department and specifically in the soccer program, selected a demonstrably less qualified white candidate for the Men's Head Coach position. Defendant selected a candidate with demonstrably inferior qualifications over Plaintiff because Plaintiff is Black and because Plaintiff was born in Trinidad and Tobago.

24. As a direct and proximate cause of Defendant's discriminatory acts, Plaintiff has and will continue to suffer pecuniary losses, emotional anguish and stress, and has been negatively impacted in terms of employment opportunities and compensation related thereto. Defendant's conduct was willful and wanton and Defendant knew its actions would cause injury to Plaintiff.

### **B. Discrimination in Violation of 42 U.S.C. §1981.**

25. Plaintiff restates and realleges the allegations of paragraphs one (1) through 20 as if fully set forth herein and further state as follows:

26. Defendant subjected Plaintiff to discrimination and thwarted Plaintiff's contract opportunities and equal enjoyment of the rights, privileges and benefits enjoyed by white citizens based on his race, ethnicity, and national origin, in violation of the Civil Rights Act of 1866, by failing to select him for the Men's Head Soccer Coach position in December 2018.

27. Defendant, which has a history of discrimination in staffing, particularly within its Athletic Department and specifically in the soccer program, selected a demonstrably less qualified white candidate for the Men's Head Coach position. Defendant selected a candidate with demonstrably inferior qualifications over Plaintiff because Plaintiff is Black and because Plaintiff was born in Trinidad and Tobago.

28. As a direct and proximate cause of Defendant's discriminatory acts, Plaintiff has and will continue to suffer pecuniary losses, emotional anguish and stress, and has been negatively impacted in terms of employment opportunities and compensation related thereto. Defendant's conduct was willful and wanton and Defendant knew its actions would cause injury to Plaintiff.

## **VI. RELIEF**

Plaintiff request that this Court

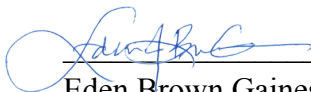
- (1) Declare that Defendant violated Plaintiff's rights as secured by the Civil Rights Act of 1866 and Title VII of the Civil Rights Act of 1964, as amended;
- (2) Issue an injunction order Defendant to refrain from continued discrimination against Plaintiff;
- (3) Instate Plaintiff to the position of Men's Head Soccer Coach;
- (4) Order that Plaintiff be paid back pay and front pay;

- (5) Order an award of compensatory damages in amounts to be determined by a jury;
- (6) Order an award of punitive damages in amounts to be determined by a jury to deter Defendant from continued wanton and willful discriminatory conduct and to punish Defendant for having engaged in discriminatory conduct as it pertains to Plaintiff's non-selection;
- (7) Award Plaintiff attorney's fees, case expenses and costs; and
- (8) Award Plaintiff any additional relief as may be reasonable to make Plaintiff whole and effectuate justice.

**Plaintiff demands a trial by jury.**

Respectfully submitted:

October 30, 2019



Eden Brown Gaines  
Brown Gaines, LLC  
Bar No. 489862s  
10 G Street, NE  
Suite 600  
Washington, DC 20002  
(202) 248-5040 (office)  
(301) 5420--32 (facsimile)  
egaines@browngaines.com